

106TH CONGRESS  
2D SESSION

# H. R. 5531

To amend the Internal Revenue Code of 1986 to impose a windfall profit tax on electricity, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 24, 2000

Mr. KUCINICH (for himself and Mr. FILNER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to impose a windfall profit tax on electricity, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Electricity Price Spike  
5 Act of 2000”.

6 **SEC. 2. WINDFALL PROFITS TAX.**

7 (a) IN GENERAL.—Subtitle E of the Internal Rev-  
8 enue Code of 1986 (relating to alcohol, tobacco, and cer-

tain other excise taxes) is amended by adding at the end thereof the following new chapter:

**“CHAPTER 55—WINDFALL PROFIT ON  
ELECTRICITY**

“Sec. 5886. Imposition of tax.

**“SEC. 5886. IMPOSITION OF TAX.**

“(a) IN GENERAL.—In addition to any other tax imposed under this title, there is hereby imposed an excise tax on the sale in the United States of any electricity equal to the applicable percentage of the windfall profit on such sale.

“(b) DEFINITIONS.—For purposes of this section—

“(1) WINDFALL PROFIT.—The term ‘windfall profit’ means, with respect to any sale, so much of the profit on such sale as exceeds a reasonable profit.

“(2) APPLICABLE PERCENTAGE.—The term ‘applicable percentage’ means—

“(A) 50 percent to the extent that the profit on the sale exceeds 100 percent of the reasonable profit on the sale but does not exceed 102 percent of the reasonable profit on the sale,

“(B) 75 percent to the extent that the profit on the sale exceeds 102 percent of the

1 reasonable profit on the sale but does not ex-  
 2 ceed 105 percent of the reasonable profit on the  
 3 sale, and

4 “(C) 100 percent to the extent that the  
 5 profit on the sale exceeds 105 percent of the  
 6 reasonable profit on the sale.

7 “(4) REASONABLE PROFIT.—The term ‘reason-  
 8 able profit’ means the amount determined by the  
 9 Reasonable Profits Board to be a reasonable profit  
 10 on the sale.

11 “(c) LIABILITY FOR PAYMENT OF TAX.—The taxes  
 12 imposed by subsection (a) shall be paid by the seller.”

13 (b) CLERICAL AMENDMENT.—The table of chapters  
 14 for subtitle E of such Code is amended by adding at the  
 15 end the following new item:

“Chapter 55. Windfall profit on electricity.”

16 (c) EFFECTIVE DATE.—The amendments made by  
 17 this section shall take effect on the date of the enactment  
 18 of this Act.

19 **SEC. 3. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS**  
 20 **TO EXISTING HOMES.**

21 (a) IN GENERAL.—Subpart A of part IV of sub-  
 22 chapter A of chapter 1 of the Internal Revenue Code of  
 23 1986 (relating to nonrefundable personal credits) is  
 24 amended by inserting after section 25A the following new  
 25 section:

1 **“SEC. 25B. ENERGY EFFICIENCY IMPROVEMENTS TO EXIST-**  
2 **ING HOMES.**

3 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
4 dividual, there shall be allowed as a credit against the tax  
5 imposed by this chapter for the taxable year an amount  
6 equal to 20 percent of the amount paid or incurred by  
7 the taxpayer for qualified energy efficiency improvements  
8 installed during such taxable year.

9 “(b) LIMITATIONS.—

10 “(1) MAXIMUM CREDIT.—The credit allowed by  
11 this section with respect to a dwelling shall not ex-  
12 ceed \$2,000.

13 “(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER  
14 ON SAME DWELLING TAKEN INTO ACCOUNT.—If a  
15 credit was allowed to the taxpayer under subsection  
16 (a) with respect to a dwelling in 1 or more prior tax-  
17 able years, the amount of the credit otherwise allow-  
18 able for the taxable year with respect to that dwell-  
19 ing shall not exceed the amount of \$2,000 reduced  
20 by the sum of the credits allowed under subsection  
21 (a) to the taxpayer with respect to the dwelling for  
22 all prior taxable years.

23 “(c) CARRYFORWARD OF UNUSED CREDIT.—If the  
24 credit allowable under subsection (a) exceeds the limita-  
25 tion imposed by section 26(a) for such taxable year re-  
26 duced by the sum of the credits allowable under subpart

1 A of part IV of subchapter A (other than this section),  
2 such excess shall be carried to the succeeding taxable year  
3 and added to the credit allowable under subsection (a) for  
4 such taxable year.

5 “(d) QUALIFIED ENERGY EFFICIENCY IMPROVE-  
6 MENTS.—For purposes of this section, the term ‘qualified  
7 energy efficiency improvements’ means any energy effi-  
8 cient building envelope component, and any energy effi-  
9 cient heating, cooling, or water heating appliance, the in-  
10 stallation of which, by itself or in combination with other  
11 such components or appliances, is certified to improve the  
12 annual energy performance of the existing home by at  
13 least 30 percent, if—

14 “(1) such component or appliance is installed in  
15 or on a dwelling—

16 “(A) located in the United States, and

17 “(B) owned and used by the taxpayer as  
18 the taxpayer’s principal residence (within the  
19 meaning of section 121),

20 “(2) the original use of such component or ap-  
21 pliance commences with the taxpayer, and

22 “(3) such component or appliance reasonably  
23 can be expected to remain in use for at least 5  
24 years.

1 Such certification shall be made by the contractor who in-  
2 stalled such improvements, a local building regulatory au-  
3 thority, or a qualified energy consultant (such as a utility  
4 or an accredited home energy rating system provider).

5 “(e) SPECIAL RULES.—

6 “(1) TENANT-STOCKHOLDER IN COOPERATIVE  
7 HOUSING CORPORATION.—In the case of an indi-  
8 vidual who is a tenant-stockholder (as defined in sec-  
9 tion 216) in a cooperative housing corporation (as  
10 defined in such section), such individual shall be  
11 treated as having paid his tenant-stockholder’s pro-  
12 portionate share (as defined in section 216(b)(3)) of  
13 the cost of qualified energy efficiency improvements  
14 made by such corporation.

15 “(2) CONDOMINIUMS.—

16 “(A) IN GENERAL.—In the case of an indi-  
17 vidual who is a member of a condominium man-  
18 agement association with respect to a condo-  
19 minium which he owns, such individual shall be  
20 treated as having paid his proportionate share  
21 of the cost of qualified energy efficiency im-  
22 provements made by such association.

23 “(B) CONDOMINIUM MANAGEMENT ASSO-  
24 CIATION.—For purposes of this paragraph, the  
25 term ‘condominium management association’

1 means an organization which meets the require-  
2 ments of paragraph (1) of section 528(c) (other  
3 than subparagraph (E) thereof) with respect to  
4 a condominium project substantially all of the  
5 units of which are used as residences.

6 “(f) BASIS ADJUSTMENT.—For purposes of this sub-  
7 title, if a credit is allowed under this section for any ex-  
8 penditure with respect to any property, the increase in the  
9 basis of such property which would (but for this sub-  
10 section) result from such expenditure shall be reduced by  
11 the amount of the credit so allowed.

12 “(g) TERMINATION.—Subsection (a) shall apply to  
13 qualified energy efficiency improvements installed during  
14 the period beginning on January 1, 1999, and ending on  
15 December 31, 2003.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Subsection (c) of section 23 of such Code  
18 is amended by inserting “, section 25B, and section  
19 1400C” after “other than this section”.

20 (2) Subparagraph (C) of section 25(e)(1) of  
21 such Code is amended by striking “section 23” and  
22 inserting “sections 23, 25B, and 1400C”.

23 (3) Subsection (d) of section 1400C of such  
24 Code is amended by inserting “and section 25B”  
25 after “other than this section”.

1           (4) Subsection (a) of section 1016 of such Code  
 2           is amended by striking “and” at the end of para-  
 3           graph (26), by striking the period at the end of  
 4           paragraph (27) and inserting “; and”, and by add-  
 5           ing at the end the following new paragraph:

6           “(28) to the extent provided in section 25B(f),  
 7           in the case of amounts with respect to which a credit  
 8           has been allowed under section 25B.”.

9           (5) The table of sections for subpart A of part  
 10          IV of subchapter A of chapter 1 of such Code is  
 11          amended by inserting after the item relating to sec-  
 12          tion 25A the following new item:

          “Sec. 25B. Energy efficiency improvements to existing homes.”.

13          (c) EFFECTIVE DATE.—The amendments made by  
 14          this section shall apply to taxable years ending after De-  
 15          cember 31, 1998.

16   **SEC. 4. CITIZENS’ UTILITY BOARDS.**

17          (a) ESTABLISHMENT.—Unless already in existence,  
 18          each State shall create a not-for-profit membership cor-  
 19          poration to be known as the “Citizens’ Utility Board,  
 20          Inc.” herein referred to as the State CUB. An existing  
 21          not-for-profit membership corporation located in a State  
 22          may become the State CUB provided it meets all the re-  
 23          quirements of this section.

24          (b) MEMBERSHIP.—The membership of the State  
 25          CUB shall consist of all residential consumers of elec-



1 tricity 16 years of age or older who have contributed to  
2 the State CUB an annual membership fee, provided, that  
3 any person may resign from membership.

4 (c) DUTIES, RIGHTS, AND POWERS OF THE STATE  
5 CUB.—

6 (1) DUTIES.—The State CUB shall—

7 (A) represent and promote the interests of  
8 a State's residential consumers of electricity,  
9 and all actions by the State CUB under this  
10 section shall be directed toward such duty;

11 (B) inform, insofar as possible, all residen-  
12 tial consumers of electricity about the State  
13 CUB, including the procedure for obtaining  
14 membership in the State CUB;

15 (C) establish an annual membership fee  
16 which shall be set at a level that provides suffi-  
17 cient funding for the State CUB to effectively  
18 perform its powers and duties, and is affordable  
19 for as many electricity consumers as is possible,  
20 but nevertheless is not less than \$5; and

21 (D) have all rights and powers accorded  
22 generally to, and be subject to all duties im-  
23 posed generally upon, not-for-profit membership  
24 corporations under the laws of a State.

1           (2) RIGHTS AND POWERS.—In addition, the  
2       State CUB shall have the following rights and pow-  
3       ers:

4           (A) To solicit and accept gifts, loans,  
5       grants or other aid in order to support activities  
6       concerning the interests of residential con-  
7       sumers of electricity, except that the State  
8       CUB may not accept gifts, loans or other aid  
9       from any person or company that generates,  
10      transmits, distributes, or supplies electricity, or  
11      from any director, employee or agent or mem-  
12      ber of the immediate family of a director, em-  
13      ployee or agent of any company that generates,  
14      transmits, distributes, or supplies electricity.

15          (B) To seek tax-exempt status under State  
16      and Federal law.

17          (C) To conduct, support, and assist re-  
18      search, surveys, investigations, planning activi-  
19      ties, conferences, demonstration projects, and  
20      public information activities concerning the in-  
21      terests of residential consumers of electricity.  
22      The State CUB may accept grants, contribu-  
23      tions, and legislative appropriations for such ac-  
24      tivities.

1 (D) To contract for services which cannot  
2 reasonably be performed by its employees.

3 (E) To represent the interests of residen-  
4 tial consumers of electricity before regulatory  
5 agencies, legislative bodies and other public  
6 bodies.

7 (F) To initiate, to intervene as a party, to  
8 maintain, or to otherwise participate on behalf  
9 of residential consumers of electricity in any  
10 proceeding that affects the interests of residen-  
11 tial consumers of electricity.

12 (G) To support or oppose ballot propo-  
13 sitions concerning matters that it determines  
14 may affect the interests of residential con-  
15 sumers of electricity.

16 (3) The State CUB shall have, in addition to  
17 the rights and powers enumerated in this section,  
18 such other incidental rights and powers as are rea-  
19 sonably necessary for the effective representation  
20 and protection of the interests of residential con-  
21 sumers of electricity.

22 (4) NONPOLITICAL.—The State CUB shall not  
23 sponsor, endorse, or otherwise support, nor shall it  
24 oppose, any political party or the candidacy of any  
25 person for public office.

1 (d) STATE-ASSISTED FUNDRAISING BY THE STATE  
2 CUB.—

3 (1) IN GENERAL.—(1) The State CUB shall  
4 have the authority to prepare and furnish to any  
5 State agency an enclosure that the State agency  
6 shall include within any mailing designated by the  
7 State CUB. The State CUB shall provide the agency  
8 with any such enclosure at a time reasonably in ad-  
9 vance of the mailing. The State CUB may not re-  
10 quire any State agency to mail an enclosure more  
11 than four times in any calendar year.

12 (2) LIMITATION.—Enclosures furnished by the  
13 State CUB under this section shall be limited to so-  
14 liciting information and money from consumers and  
15 explaining—

16 (A) the purpose, history, nature, activities,  
17 and achievements of the State CUB;

18 (B) that the State CUB is open to mem-  
19 bership by residential consumers;

20 (C) that the State CUB is not connected  
21 to any utility company or governmental agency;

22 (D) that the State CUB is a not-for-profit  
23 corporation directed by its consumer members;

24 (E) the procedure for contributing to or  
25 becoming a member of the State CUB; and

1 (F) the yearly membership fee.

2 (3) APPROVAL OF CONTENT OF ENCLOSURE.—

3 Prior to furnishing an enclosure to a State agency  
4 for mailing, the State CUB shall seek and obtain the  
5 approval of the appropriate State authority of the  
6 content of the enclosure. The State authority shall  
7 approve the enclosure if it determines that the  
8 enclosure—

9 (A) is not false or misleading, and

10 (B) contains and is limited to the informa-  
11 tion permitted by this section.

12 The State authority shall be deemed to have ap-  
13 proved the enclosure unless it disapproves the enco-  
14 sure within 14 days of receipt.

15 (4) REIMBURSEMENT OF COSTS INCURRED.—

16 The State CUB shall reimburse each State agency  
17 for all reasonable incremental costs incurred by the  
18 State agency in complying with this section above  
19 the agency's normal mailing and handling costs, pro-  
20 vided that—

21 (A) the State agency shall first furnish the  
22 State CUB with an itemized accounting of such  
23 additional costs; and

24 (B) the State CUB shall not be required to  
25 reimburse the State agency for postage costs if

1           the weight of the State CUB's enclosure does  
2           not increase the cost of the State agency mail-  
3           ing.

4           If the State CUB's enclosure increases the cost of  
5           the State agency mailing, then it will be required to  
6           reimburse the State agency for postage cost over  
7           and above what the agency's postage cost would  
8           have been without the State CUB's enclosure.

9   **SEC. 5. REASONABLE PROFITS BOARD.**

10          (a) ESTABLISHMENT.—There is established an inde-  
11          pendent board to be known as the “Reasonable Profits  
12          Board” (hereafter in this section referred to as the  
13          “Board”).

14          (b) DUTIES.—The Board shall make reasonable prof-  
15          it determinations for purposes of applying section 5886  
16          of the Internal Revenue Code of 1986 (relating to windfall  
17          profit on electricity).

18          (c) ADVISORY COMMITTEE.—The Board shall be con-  
19          sidered an advisory committee within the meaning of the  
20          Federal Advisory Committee Act (5 U.S.C. App.).

21          (d) APPOINTMENT.—

22                  (1) MEMBERS.—The Board shall be composed  
23          of 3 members appointed by the President of the  
24          United States.

1           (2) TERM.—Members of the Board shall be ap-  
2           pointed for a term of 3 years.

3           (3) BACKGROUND.—The members shall have no  
4           financial interests in any of the businesses for which  
5           reasonable profits are determined by the Board.

6           (e) PAY AND TRAVEL EXPENSES.—

7           (1) PAY.—Notwithstanding section 7 of the  
8           Federal Advisory Committee Act (5 U.S.C. App.),  
9           members of the Board shall be paid at a rate equal  
10          to the daily equivalent of the minimum annual rate  
11          of basic pay for level IV of the Executive Schedule  
12          under section 5315 of title 5, United States Code,  
13          for each day (including travel time) during which the  
14          member is engaged in the actual performance of du-  
15          ties vested in the Board.

16          (2) TRAVEL EXPENSES.—Members shall receive  
17          travel expenses, including per diem in lieu of subsist-  
18          ence, in accordance with section 5702 and 5703 of  
19          title 5, United States Code.

20          (f) DIRECTOR OF STAFF.—

21          (1) QUALIFICATIONS.—The Board shall appoint  
22          a Director who has no financial interests in any of  
23          the businesses for which reasonable profits are de-  
24          termined by the Board.

1           (2) PAY.—Notwithstanding section 7 of the  
2       Federal Advisory Committee Act (5 U.S.C. App.),  
3       the Director shall be paid at the rate of basic pay  
4       payable for level IV of the Executive Schedule under  
5       section 5315 of title 5, United States Code.

6       (g) STAFF.—

7           (1) ADDITIONAL PERSONNEL.—The Director,  
8       with the approval of the Board, may appoint and fix  
9       the pay of additional personnel.

10          (2) APPOINTMENTS.—The Director may make  
11       such appointments without regard to the provisions  
12       of title 5, United States Code, governing appoint-  
13       ments in the competitive service, and any personnel  
14       so appointed may be paid without regard to the pro-  
15       visions of chapter 51 and subchapter III of chapter  
16       53 of that title relating to classification and General  
17       Schedule pay rates.

18          (3) DETAILEES.—Upon the request of the Di-  
19       rector, the head of any Federal department or agen-  
20       cy may detail any of the personnel of that depart-  
21       ment or agency to the Board to assist the Board in  
22       accordance with an agreement entered into with the  
23       Board.

24          (4) ASSISTANCE.—The Comptroller General of  
25       the United States may provide assistance, including



1 the detailing of employees, to the Board in accord-  
2 ance with an agreement entered into with the Board.

3 (h) OTHER AUTHORITY.—

4 (1) EXPERTS AND CONSULTANTS.—The Board  
5 may procure by contract, to the extent funds are  
6 available, the temporary or intermittent services of  
7 experts or consultants pursuant to section 3109 of  
8 title 5, United States Code.

9 (2) LEASING.—The Board may lease space and  
10 acquire personal property to the extent that funds  
11 are available.

12 (i) FUNDING.—There are authorized to be appro-  
13 priated such funds as are necessary to carry out this sec-  
14 tion.

○